

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

HAYDEE E. RODRIGUEZ, Individually,  
and as Representative of the estate of Luis  
Miguel Rodriguez, Deceased, DOROTHY  
RUSSO, Individually, and as Representative  
of the estate of Karen J. Russo, Deceased,

Plaintiffs,

vs.

CIV 6:09-0431-JAP-GBW

TOYOTA MOTOR CORPORATION,

Defendant.

**INITIAL SCHEDULING ORDER**

This cause is assigned to me for scheduling, case management, discovery and other non-dispositive motions. The Federal Rules of Civil Procedure, as amended, as well as the Local Rules of the Court will apply to this lawsuit.

The parties, appearing through counsel or *pro se*, will “meet and confer” no later than **September 10, 2009**, to formulate a provisional discovery plan. FED. R. CIV. P. 26(f). The time allowed for discovery is generally 120 to 150 days. The parties will cooperate in preparing a *Joint Status Report and Provisional Discovery Plan* (“JSR”) which follows the sample JSR available at the Court’s web site.<sup>1</sup> The blanks for suggested/proposed dates are

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<sup>1</sup> Pursuant to Administrative Order No. 06-173, the JSR replaces and supersedes the Provisional Discovery Plan and the Initial Pretrial Report, effective January 2, 2007. Please visit the Court’s web site,

to be filled in by the parties. Actual dates will be promulgated by order of the court shortly after entry of the JSR. Plaintiff, or Defendant in removed cases, is responsible for filing the JSR by **September 17, 2009**.

Good cause must be shown and the Court's express and written approval obtained for any modification of the dates in the scheduling order that issue from the JSR.

Initial disclosures under FED. R. CIV. P. 26(a)(1) shall be made within fourteen (14) days of the meet-and-confer session.

A Rule 16 scheduling conference will be conducted by telephone on **September 24, 2009, at 10:00 a.m.** Counsel for Plaintiff shall initiate and coordinate the telephone conference call to (575) 528-1460. It is recommended that a reliable long-distance carrier be used to insure sound quality.

At the Rule 16 scheduling conference, counsel will be prepared to discuss discovery needs and scheduling, all claims and defenses, the use of scientific evidence and whether a *Daubert*<sup>2</sup> hearing is needed, initial disclosures, and the time of expert disclosures and reports under FED. R. CIV. P. 26(a)(2). We will also discuss settlement prospects and alternative dispute resolution possibilities and consideration of consent pursuant to 28 U.S.C. § 636(c). Client attendance is not required. If service on all parties is not complete, plaintiff(s) appearing through counsel or *pro se*, is (are) responsible for notifying all parties

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[www.nmcourt.fed.us](http://www.nmcourt.fed.us) to download the standardized *Joint Status Report and Provisional Discovery Plan* form.

<sup>2</sup> *Daubert v. Merrell Dow Pharmaceuticals*, 509 U. S. 579 (1993).

of the content of this order.

Pre-trial practice in this cause shall be in accordance with the foregoing.



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UNITED STATES MAGISTRATE JUDGE